What is a Lasting Power of Attorney?


An LPA allows a person (the donor) to choose who will make decisions on their behalf if in the future the person is unable to make decisions for themselves. The person (or people) they name to do this is called an attorney(s).

There are two types of LPA

- property and affairs LPAs and;
- personal welfare LPAs.

Each has its own separate form. These forms can be obtained from the Office of the Public Guardian (OPG):

Contact: www.publicguardian.gov.uk or Phone: 0845 330 2900

What is a property and affairs LPA?

A property and affairs LPA gives the attorney(s) the power to make decisions about financial and property matters, such as selling a house or managing a bank account. A property and affairs LPA can take effect as soon as it is registered, even while the donor still has capacity, unless the donor specifies otherwise. This used to be covered under Enduring Power of Attorneys which have since been repealed. If you have already prepared an EPA it will still continue to be valid after 1 October 2007 but no new EPAs will be made.

What is a personal welfare LPA?

A personal welfare LPA gives the attorney(s) the power to make decisions about health and personal welfare, such as day-to-day care, medical treatment, or where the person should live. This is a new aspect of law allowing for this type of decision making authority to be given to another person. It takes effect only when the donor lacks capacity to make decisions.

Where must a LPA be registered?

A Lasting Power of Attorney (LPA) must be registered with the Office of the Public Guardian (OPG) before it can be used. An unregistered LPA will not give the Attorney any legal powers to make a decision for the Donor. The Donor can register the LPA while they have capacity, or the Attorney can apply to register the LPA at any time.
What are the benefits of LPAs?

LPAs give more protection as there are specific rules that need to be followed when creating them.

There are also more options available than the previous system of Enduring Power of Attorney (EPA).

What else do you need to know?

Be aware an enduring Power of Attorney (EPA) only applies to finance and property matters, so if a donor wants an attorney to have authority to make welfare decisions then an LPA for personal welfare decisions will need to be made.

Contact the Office of the Public Guardian for all further information relating to LPAs on:

Contact: www.publicguardian.gov.uk or Phone: 0845 330 2900

Further sources of information about the Mental Capacity Act

Embrace E.learning
http://www.mentalhealth.uk.net/viewpage.php?page_id=3

This programme was developed by a company called Embrace and is a national initiative to help provide basic information about the MCA to the general public.

- Information for the public
- Covers: How to use E.Learning
- 5 Key principles / Assessing Capacity / IMCAs
  It takes approximately 10-20 Minutes to complete

Three Stories DVD:

This is a DVD produced by the Public Guardian Office. 'Three Stories' is a powerful documentary depicting the 3 real life stories. It shows how the Mental Capacity Act empowers and protects people who lack mental capacity to make some decisions or who find it difficult to communicate some of their decisions

It can be downloaded at:

http://www.publicguardian.gov.uk/about/three-stories.htm
Resources from DoH:

The department of health has produced 6 different booklets to be available for all groups of people to access information about the Mental Capacity Act.

**Booklets / Easy Read Summaries:**

**Making Decisions Booklets:**
A guide for ..........
- who decides when you can’t
- family friends and unpaid carers

These are specifically aimed towards service users and carers and are written in an easy to read format.

- advice workers
- people who work in health and social care
- easy read summary
- IMCA service

You can download these booklets using this link from the Glos County Council website: [http://www.gloucestershire.gov.uk/index.cfm?articleid=15111](http://www.gloucestershire.gov.uk/index.cfm?articleid=15111)

At the present time it is not possible to order hard copies

Both lasting Power of Attorneys and Advance Decisions form part of the Mental Capacity Act. However, a Lasting Power of Attorney is different from an Advance Decision.

A Lasting Power of Attorney is made while a person has capacity and allows the person to name another person or people to make certain decisions for them in the future should the person lose the ability to make decisions for themself.

An Advance Decision is a decision to refuse a specific treatment. It is made while a person has capacity and usually about treatments that may be offered to the person in the future. Advance Decisions can only be made to refuse treatments, not to request them.

If you want further information about Advance Decisions then please ask for the Gloucestershire Partnership Foundation Trust information leaflet about Advance Decisions/Rainy Day Care Plan.